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BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 95-1185-C - ORDER NO. 96-378
MAY 29, 1996

IN RE: BellSouth Telecommunications, Inc. Petition) ORDER
to Detariff ESSX Service.) RULING ON
) PETITION

This matter comes before the Public Service Commission of South Carolina (the Commission) pursuant to the October 11, 1995 Petition of BellSouth Telecommunications, Inc. (BellSouth or the Company) requesting that the Commission allow BellSouth to offer its ESSX Service and any successor offering thereto, without being required to maintain a price schedule at the Commission. This Petition was filed pursuant to S.C. Code Ann. Section 58-9-230 (Supp. 1995).

Subsequent to the filing of the Petition, the Commission's Executive Director instructed BellSouth to cause to be published a prepared Notice of Filing, one time, in newspapers of general circulation in the areas affected by the Petition. The purpose of the Notice of Filing was to inform interested persons about the Petition and to instruct interested persons of the manner and time in which to file pleadings for participation in the proceedings. BellSouth duly complied with the instructions of the Executive Director and submitted affidavits of publication. Petitions to Intervene were received from AT&T Communications of the Southern

States, Inc., (AT&T), and the Consumer Advocate for the State of South Carolina (the Consumer Advocate).

A public hearing on BellSouth's Petition was commenced before the Commission on February 21, 1996 at 10:30 a.m. The Honorable Rudolph Mitchell, Chairman, presided. Harry M. Lightsey, III, Esq. and William F. Austin, Esq. represented BellSouth, Francis P. Mood, Esq., represented AT&T, Elliott F. Elam, Jr., Esq., represented the Consumer Advocate, and F. David Butler, General Counsel represented the Commission Staff.

BellSouth presented the testimony of Jane S. Sosebee. Ms. Sosebee testified that ESSX, which is a centrex-type service offered by BellSouth, is subject to competition throughout the State from PBX Systems and Large Key Systems. Ms. Sosebee testified that in the Greenville area alone, at least seven (7) active viable competitors compete with BellSouth in this market. She also stated that BellSouth's ESSX market share is only 18% of the large business market in its service area in the state. BellSouth therefore contends that its ESSX service is subject to competition in the relevant product and geographic markets pursuant to S.C. Code Ann. Section 58-9-230 (B) (Supp. 1995). Ms. Sosebee also testified that no monopoly elements are offered as part of BellSouth's ESSX Service because "all elements required for the provision of ESSX service are either available through the general subscriber services tariff on an unbundled basis, or available as the part of the normal functions performed by PBX or Key System switch."

The ESSX Service directs calls to the outside world by using a Network Access Register (NAR). BellSouth is not asking the Commission to detariff the NAR portion of the ESSX service. BellSouth is only asking the Commission to detariff the portion of the ESSX service which handles calls that both originate and terminate within a subscriber's intercom system, that is, the portion of the ESSX service which is analogous to a PBX. See Brief of BellSouth.

Finally, Ms. Sosebee explained that even after detariffing BellSouth's ESSX Service, the Commission would continue to regulate the rates, revenues, investments, expenses, and quality of BellSouth's ESSX service. The Commission would also maintain the authority to review BellSouth's rates to insure that they are above the cost of the ESSX service. Once detariffed and pursuant to the Commission's continuing authority, BellSouth states that it will make available to this Commission and the Consumer Advocate the cost of the ESSX service which supports the charges made to BellSouth's customers for this service.

AT&T presented the testimony of Mike Guedel. Mr. Guedel testified that the ESSX offering is not a single competitive product, but rather a collection of products which includes both monopoly and competitive components. Second, Guedel recommended that the Commission order BellSouth to separate the monopoly elements from the ESSX offering and make those elements available to all customers on a non-discriminatory basis, before it considers detariffing the competitive elements contained in the ESSX

offering. Guedel went on the state that no customer of BellSouth ESSX Service can purchase local loops from any other vendor in South Carolina. Therefore, there are no alternative vendors of local loops connected to any BellSouth switch. Guedel went on to recommend that the Commission order BellSouth to unbundle the local loops from the ESSX offering. According to Guedel, the loops should be made available, such as NARs, at the same rates, terms, conditions to all customers. In other words, according to Guedel, a customer selecting a PBX system should pay BellSouth the same price for loops as a customer selecting a BellSouth ESSX alternative.

We have examined the evidence in full in this proceeding. First, we disagree with Mr. Guedel's allegation that monopoly elements of ESSX should be unbundled from the competitive elements before the service could be offered on a detariffed basis. We agree with the testimony of Ms. Sosebee that all elements required for the provisions of ESSX service are either available through the general subscriber services tariff on a unbundled basis or are available as part of the normal function performed by PBX or Key a Systems switch. We hold that ESSX service is subject to competition in the relevant product and geographic markets, based on the testimony of Ms. Sosebee.

We therefore grant BellSouth's Petition to offer, pursuant to Section 58-9-230, centrex-type service (ESSX service and any successor offering) without being required to maintain a price schedule at the Commission. The services subject to this holding

are those centrex-type services that are on the "customer side" of the network access register. These services shall still be regulated services, with the Commission maintaining the regulatory authority over the rates, revenues, investments, expenses, and quality of services offered.

We believe however, that BellSouth should be required to inform the Commission, through a written letter, of any change in the service fourteen (14) days before the change is scheduled to take effect, in order for the Commission to investigate, if it so elects, any proposed change. Further, cost studies for ESSX and any successor service shall be monitored by the Staff so as to be in compliance with the statute (S.C. Code Ann. Section 58-9-230) on a semi-annual basis, and to ensure that the services are provided at a level above the cost of service. The Petition of BellSouth Telecommunications, Inc. is therefore granted as modified above.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)